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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,639	12/16/2003	Katsuhiro Inada	Q78975	3517
23373	7590	09/22/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			GERRITY, STEPHEN FRANCIS	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/735,639

Applicant(s)

INADA ET AL.

Examiner

Stephen F. Gerrity

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/530,507.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/16/03 &amp; 4/13/04</u> . | 6) <input type="checkbox"/> Other: ____   |

## DETAILED ACTION

### ***Continuing Data Should Be Updated***

1. Applicant is respectfully requested to carefully review all continuing data for accuracy and completeness, and the status of each parent application should be updated where appropriate.

### ***Specification***

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The title of the invention should be amended so that it is consistent with the currently claimed invention.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Faict et al. (US 5,881,879).

The Faict et al. reference discloses a system for preserving and delivering bicarbonate-containing solutions. The apparatus comprises an inner gas-permeable container 11, surrounded by an outer gas-impermeable container 13. Between the

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containers is a space 14 that contains gas generated by a bicarbonate-containing, carbon-dioxide emitting solution 12 contained within container 11. Carbon dioxide is contained within the airspace 14 throughout the storage of the container. The container 11 may be comprised of two compartments, in which a separating wall 16 that divides the container. The two compartments 17 and 18 contain isolated solutions 19 and 20, which may be a dextrose and calcium solution and a bicarbonate solution, respectively (column 4, lines 22-65, FIG 2). The apparatus further contains an indicator 15 that may detect a change in partial pressure in the space between the containers or a change in the pH of the solution in the interior container. The indicator 15 may comprise a housing of gas-permeable material, and may change color in the event of gas leakage. The indicator also may be dissolved within the solutions in the bag, wherein the solutions contain any bicarbonate ion, which includes sodium bicarbonate. The indicator solution may comprise cresol red, m-cresol purple, thymol blue, and phenolphthalein, and combinations thereof (column 5, lines 8-42, column 6, lines 1-7). With regard to applicant's recitation of solid preparations, Faict discloses a "solution," which may include a substance mixed with a liquid, gas, or solid, anticipating applicant's claims drawn to a solid preparation. See Merriam-Webster's Collegiate Dictionary, 10<sup>th</sup> Edition.

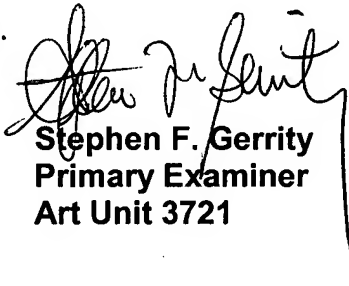
### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Gerrity whose telephone number is 571-272-4460. The examiner can normally be reached on Monday - Friday from 5:30 - 2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Stephen F. Gerrity**  
Primary Examiner  
Art Unit 3721

19 September 2005